

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Clifford Tucker	Team: Team # 6	CCRB Case #: 200813837	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 09/20/2008 9:08 PM	Location of Incident: On the corner of Stuyvesant Avenue and Monroe Street	Precinct: 81	18 Mo. SOL 3/20/2010	EO SOL 3/20/2010	
Date/Time CV Reported Tue, 09/23/2008 11:39 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/23/2008 11:39 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Emily Harris	20669	941882	081 PCT
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Errol Rollins	18816	940664	081 PCT
2. POM Jack Kwok	21878	940347	081 PCT
3. POM Jermaine Webb	23514	935958	081 PCT
4. POM Jeffrey Liss	01422	944738	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Emily Harris	Abuse: Officer Emily Harris searched § 87(2)(b)	
B.POF Emily Harris	Abuse: Officer Emily Harris threatened § 87(2)(b) with the use of force.	
C. Officers	Force: Officers used physical force against § 87(2)(b)	

Synopsis

§ 87(2)(b) filed the following complaint via telephone to the CCRB on September 23, 2008 (Encl. 4A-B).

On September 20, 2008 at approximately 9:00pm, § 87(2)(b) was leaning into his sister's, § 87(2)(b) driver side window as she was double parked in the vicinity of Stuyvesant Avenue and Monroe Street in Brooklyn. An RMP containing PO Errol Rollins and PO Emily Harris of the 81st Precinct drove behind § 87(2)(b) car and PO Rollins allegedly told § 87(2)(b) to tell § 87(2)(b) to move the car. § 87(2)(b) allegedly cursed at PO Rollins. PO Harris exited the RMP and approached § 87(2)(b) as PO Rollins parked the RMP. PO Harris allegedly put her hand into each of § 87(2)(b)'s pockets (Allegation A). § 87(2)(b) grabbed PO Harris' wrist. Then PO Rollins approached and displayed his handcuffs. § 87(2)(b) said he will not be arrested. § 87(2)(b) allegedly pushed PO Rollins at which point PO Rollins and PO Harris started to arrest § 87(2)(b). § 87(2)(b) resisted arrest and at one point, PO Harris pointed OC spray at § 87(2)(b) (Allegation B), but she did not use it. § 87(2)(b) tried to escape and moved his arms and legs a lot. PO Harris called for back up and about five other officers arrived, who were not identified by the investigation. In the mean time, PO Harris and PO Rollins grappled with § 87(2)(b). The officers who arrived allegedly punched § 87(2)(b) about twenty times and one officer kicked § 87(2)(b) about three times in the head (Allegation C). § 87(2)(b) was arrested and transported to the 81st Precinct.

§ 87(2)(g)

Summary of Complaint

In addition to an initial statement, which § 87(2)(b) provided upon filing his complaint on September 23, 2008, he provided an official statement on October 27, 2008 (Encl. 5B-E). He provided a phone statement on February 17, 2009 (Encl. 6A). § 87(2)(b)'s arrest photograph shows that his face is apparently normal aside from one or two approximately inch-long darker spots on the top left of his head near his hairline. It is unclear if they are injuries or unrelated marks and he otherwise appears uninjured (Encl. 5A). § 87(2)(g)

On September 20, 2008 at approximately 9:00pm, § 87(2)(b) was standing on the corner of Stuyvesant Avenue and Monroe Street in Brooklyn leaning into the driver's side window of his sister's § 87(2)(b) car. § 87(2)(b) was double parked as they spoke. A marked RMP drove up behind § 87(2)(b) car at which point § 87(2)(b) drove to the other side of the street and § 87(2)(b) crossed the road on foot. The RMP followed § 87(2)(b) and stopped. PO1--identified via investigation as PO Emily Harris--exited the RMP from the passenger's side and approached § 87(2)(b) from approximately 15 to 20 feet away. She did not run, but approached quickly. PO2--identified by the investigation as PO Errol Rollins--parked the RMP. § 87(2)(b) thought PO Harris was actually an officer named "Miller" who he observed performing traffic stops at another time. He described PO Harris as 5'7"-8", black or Hispanic, 150-160 lbs, big boned with a masculine build, possible tattoo on her neck, with twisted or braided hair or dreadlocks dyed a light color, and in uniform. He described PO Rollins as 5'8"-9", black, about 160 lbs, slim, with very short hair, a dark complexion, and in uniform.

Without saying a word, PO Harris reached her left hand into § 87(2)(b)'s right front pants pocket. § 87(2)(b) asked what she was doing and she removed her hand without responding. Then she reached her right hand into § 87(2)(b)'s left front pants pocket. As her hand was inside, § 87(2)(b) grabbed her wrist and said "What are you doing? What are you searching me for?" He held her wrist for about three seconds before he then let go. PO Rollins pulled out his handcuffs and § 87(2)(b) said "You're not handcuffing me." PO Rollins grabbed § 87(2)(b)'s upper body somewhere § 87(2)(b) could not specify. PO Harris pointed her pepper spray at § 87(2)(b)'s face, but she put it away after

§ 87(2)(b) said that if she sprayed § 87(2)(b) it would be on camera. § 87(2)(b) pushed PO Rollins off him then PO Harris jumped onto his back. They all fell so that § 87(2)(b) was on his back.

About 5 more officers arrived. He specified on February 17, 2009 in his phone statement that about five officers punched § 87(2)(b) a total of about twenty times on his back and head also, but § 87(2)(b) could not specify which officers did this. He said in his phone statement that neither PO Harris nor PO Rollins punched him. During the struggle, § 87(2)(b) was trying to get up and run away. He moved his arms and legs. He testified at the CCRB that it was not easy to bring him down because he is physically fit. PO3 kicked § 87(2)(b) in his face three times. From the struggle, he sustained minor abrasions on his torso, face and knees, which healed by the time of his CCRB interview. § 87(2)(b) never actually saw PO3 at the incident, but § 87(2)(b) pointed him out as the officer who kicked him when they went to the precinct after § 87(2)(b) was arrested. § 87(2)(b) described PO3 as Hispanic, with a goatee, in plainclothes, 5'8"-9", 150-160 lbs, and slim. § 87(2)(b) did not pursue medical treatment for any injuries sustained as direct results of this incident and did not receive any medical treatment as a direct result of this incident.

The investigator called § 87(2)(b) on April 8, 2009 and scheduled him to view a photo array on April 20, 2009. § 87(2)(b) did not appear for the interview, nor did he call to cancel or reschedule. A missed appointment letter was sent to him on April 20, 2009, which has not been returned to the CCRB. The investigator called § 87(2)(b) on April 21, 2009 and left him a voicemail to return the call and reschedule an appointment to view photos. § 87(2)(b) did not return the call (Encl. 30A-J).

Results of Investigation

Civilian Witness Statement: § 87(2)(b)

§ 87(2)(b) provided the phone number for § 87(2)(b) because he thought she witnessed the incident. § 87(2)(b) knew § 87(2)(b) through § 87(2)(b)'s friend's brother, but they had never met before this incident. § 87(2)(b) provided a phone statement on January 22, 2009 and scheduled an interview for February 5, 2009 (Encl. 7A). She did not appear for her scheduled interview nor did she call to cancel or reschedule the appointment. A missed appointment letter was sent to her on February 6, 2009, which was not returned to the CCRB. The investigator called § 87(2)(b) on May 1, 2009 and left a message with § 87(2)(b), § 87(2)(b)'s cousin, for § 87(2)(b) to return the call. § 87(2)(b) did not call to reschedule the interview (Encl. 30A-J). § 87(2)(b)'s phone statement is summarized as follows.

At approximately 9:00pm on September 20, 2009, § 87(2)(b) saw § 87(2)(b) leaning over a black car talking to someone. § 87(2)(b) called him over to the other side of the street. When she called him, the police car was passing by and an officer from the car called to § 87(2)(b). § 87(2)(b) stopped near § 87(2)(b). She moved away when PO1, a black female with a light complexion, dreadlocks, about 5'5", 160 lbs in uniform, asked § 87(2)(b) for his ID. PO1 was identified via investigation as PO Harris. PO Harris did not reach into his pockets or pat him down. § 87(2)(b) entered his pocket to get his ID. PO Harris grabbed § 87(2)(b)'s arm and pushed him against a gate. He said that all he did was talk and he has freedom of speech. He tried to pull his hand away, but PO2—a black male, 6'0", in uniform, with a thin build, facial hair: beard and mustache, and short hair—grabbed § 87(2)(b)'s other arm. PO2 was identified via investigation as PO Rollins. § 87(2)(b) said initially that § 87(2)(b) was not moving much, but upon clarification said he was trying to pull away.

§ 87(2)(b) kept saying that he did not do anything and that all he did was talk and he has freedom of speech. Approximately 4-6 other white plainclothes officers arrived at this time. PO Harris and PO Rollins put § 87(2)(b) halfway to the ground then two of the plainclothes units pushed him to the ground. PO3—a male, white, wearing blue t-shirt and black jeans, 6'0", and slim—kicked § 87(2)(b) in the head about four times. § 87(2)(b) was in the process of being cuffed while he was being kicked. A crowd had gathered. Another male civilian tried to defend § 87(2)(b) but was also arrested.

Attempts to Contact Additional Civilian Witnesses

§ 87(2)(b) provided two phone numbers for § 87(2)(b). On October 29, 2008 the investigator called § 87(2)(b) and scheduled an interview for November 7, 2008. § 87(2)(b) did not appear for her scheduled interview and did not call to cancel or reschedule the appointment. As her address could not be confirmed initially, a missed appointment letter was sent to the address which corresponded with her home

phone number following a reverse Whitepages.com search on June 2, 2009. The investigator called § 87(2)(b) on November 10, 13, 17, 25, and December 10, 2008 on her cell and home phone numbers. The investigator left voicemails on her cell phone, but could not leave messages at her home phone number, which rang continuously without an answering machine. On December 10, 2008, the investigator searched § 87(2)(b) cell phone number on Whitepages.com and found that there were no results regarding the carrier of her cellular phone. Her home phone was registered to Verizon and a subpoena for her subscriber information was sent to Verizon and the subpoena was not returned. It was determined through Verizon that the number was handled by Cablevision Light Path. The investigator called § 87(2)(b) on January 22, 2009 and left a voicemail on her cell phone, but could not leave a message on her home phone.

§ 87(2)(b) provided § 87(2)(b)'s name and phone number because § 87(2)(b) said he was sitting in § 87(2)(b) car, which was parked near the incident location at the time. He also said that § 87(2)(b) is § 87(2)(b) boyfriend. The investigator called the phone number provided by § 87(2)(b) on October 30, 2008, which led to a Spanish speaking individual. Manager Robert Rodriguez translated the phone call. The individual stated that § 87(2)(b) could not be found at that phone number. The investigator called § 87(2)(b) on October 30, 2008 to identify § 87(2)(b) and left her a voicemail to return the call. The investigator called § 87(2)(b)'s phone number on November 10, 2008 and reached the same Spanish speaking individual who confirmed § 87(2)(b) does not reside at that phone number. The investigator performed a reverse Whitepages search for § 87(2)(b)'s phone number on February 6, 2009 and found the number is linked to a cell phone carried by Verizon. The investigator faxed a subpoena to Verizon on May 1, 2009, the results of which were not returned. Confirmation of the subpoena with Verizon showed that the number is likely linked to Cellco Partnership of Verizon wireless.

§ 87(2)(b) also provided the address for § 87(2)(b) who allegedly witnessed the incident and lives on the block. He did not provide a phone number for her and one could not be found following a Whitepages.com search by her address on February 6, 2009 and a Lexis Nexis search on the same date by her name and address. The criteria for the Lexis Nexis search were too broad to provide accurate results. Two please call letters were sent to § 87(2)(b) on October 29, 2008 and February 6, 2009, neither of which was returned to the CCRB (Encl. 30A-J).

Identification of Officers Interviewed

PO Rollins is listed as § 87(2)(b)'s arresting officer on § 87(2)(b)'s arrest report (Encl. 26A). PO Harris was his partner on that day according to the September 20, 2008 tour 3 Roll Call for the 81st Precinct (Encl. 24A-O). POs Kwok, Webb, Liss, Feit, Lewis and Striken were assigned to sectors that responded to PO Harris' radio call for assistance according to the Sprint Print Out for this incident, job number S14236 (Encl. 22A-C).

Officer Statement: PO Emily Harris

PO Harris provided the following statement at the CCRB on December 10, 2008 (Encl. 8A-B). She is a § 87(2)(b) old black female 5'5", 150lbs with brown hair and brown eyes.

On September 20, 2008 at approximately 9:08pm PO Harris was the recorder assigned to RMP 2434 with her partner, PO Rollins. She was assigned to patrol. She did not have any memo book entries regarding this incident.

On September 20, 2008, at approximately 9:08pm, PO Rollins and PO Harris arrived to the corner of Stuyvesant Avenue and Monroe Street in Brooklyn. PO Harris was not paying attention and said it was PO Rollins' decision to stop § 87(2)(b). She could not recall specifically how the interaction began. The officers approached together and PO Rollins asked § 87(2)(b) for his name. § 87(2)(b) did not provide the information, but did not leave. PO Harris could not recall specifically how § 87(2)(b) responded to PO Rollins' request, but he gesticulated more and more fervently and he became increasingly louder.

PO Harris observed an unidentified bulge on his waist, which was identified to be a cell phone clip after § 87(2)(b) was arrested. PO Harris feared for her safety after observing § 87(2)(b)'s demeanor and the unidentified bulge on his waist, but she did not recall if it was covered and only found out later it was a cell phone clip. PO Harris told § 87(2)(b) she was going to pat down § 87(2)(b) and reached towards his waist. § 87(2)(b) said, "Fuck you" then he attempted to punch PO Rollins. PO Harris did not frisk § 87(2)(b) and did not put her hands in § 87(2)(b)'s pockets.

PO Rollins grabbed § 87(2)(b)'s hands but § 87(2)(b) continued to flail his arms. PO Harris tried to hold § 87(2)(b)'s shoulders, but she and PO Rollins could not control § 87(2)(b) who continued to move. PO Harris called over the radio for additional units to respond. PO Harris felt it was necessary to use pepper spray, but she did not use it because she feared that she could have sprayed her partner. She did not know exactly how many units arrived and estimated that at least two other vehicles from "the 81" containing approximately four officers arrived at the scene as back up. When the other officers joined the struggle, PO Harris was thrown to the ground. She did not see any of the other officers because they pushed them down such that § 87(2)(b) was on top of her. She could not observe what the other officers were doing to subdue § 87(2)(b). When the other officers joined the struggle, PO Harris was thrown to the ground and was underneath § 87(2)(b) at the time. She did not observe any other officers punch or kick § 87(2)(b). PO Harris did not punch or kick § 87(2)(b) at any time and did not observe PO Rollins punch or kick § 87(2)(b). She did not observe any injuries on § 87(2)(b) after the incident.

Officer Statement: PO Errol Rollins

PO Rollins provided the following statement at the CCRB on November 25, 2008 (Encl. 10A-B). He is a § 87(2)(b) old black male, 5'9", 165lbs with black hair and brown eyes. The arrest report narrative for § 87(2)(b) states, "At T/P/O A/O was responding to a radio run and was traveling s/b on Stuyvesant and Monroe when deft was speaking to his sister who was sitting in the driver side of a double park moto. veh. A/O ask (sic) deft if he could ask his sister to move the veh. Deft reply and state fuck you cock sucker, as A/O approach deft to talk with him deft push a/o and state I will fuck you up" (Encl. 25A-B).

On September 20, 2008 PO Rollins worked from 15:00-23:30, but his hours were extended to 01:59 because § 87(2)(b)'s arrest required overtime. PO Rollins was assigned to patrol sectors F and H. He was working with PO Harris. They were in uniform in marked RMP: 2334. He read the following Memo Book entries into the record: "At 21:10, male stop at corner of Stuyvesant and Monroe. His name was § 87(2)(b) 21:17, 10-85. 21:23, 92 Charlie in regards to Stuyvesant and Monroe. 01:00 faxed paper work. 01:59, received a ready time. 9/21/08 11:45, spoke to P.L. Weeks. 11:59, finished. 12:59, end of tour" (Encl. 10A-B).

At about 9:00pm, PO Rollins was driving to a job at § 87(2)(b) with PO Harris in the passenger seat. While traveling southbound on Stuyvesant and Monroe, he observed a double parked vehicle and § 87(2)(b) leaning into the driver's side. PO Rollins leaned out his window from the RMP and calmly told § 87(2)(b) to tell the driver to move the car so they could go around. § 87(2)(b) replied, "Fuck you, cock sucker" then walked away from the car. PO Harris approached § 87(2)(b) first as PO Rollins parked the RMP, but PO Rollins did not recall what kind of interaction they had if any. PO Rollins approached quickly after. PO Rollins said, "What's all that about?" § 87(2)(b) said, "I will fuck you up" then he pushed PO Rollins with both hands on PO Rollins' chest. PO Rollins stumbled back a little, but did not fall.

PO Rollins grabbed § 87(2)(b)'s left wrist. PO Harris was trying to grab § 87(2)(b)'s other wrist. § 87(2)(b) cursed and said he will not be arrested. He also "flared" his arms and grabbed onto a nearby telephone pole. PO Rollins got behind § 87(2)(b) and wrapped his arms around § 87(2)(b) to grab his wrists. PO Rollins told PO Harris it may be necessary to use pepper spray, but PO Rollins decided she should not use the spray because if § 87(2)(b) moved the spray would hit him. People were starting to gather and PO Harris called back up.

Before other officers arrived, PO Rollins pulled § 87(2)(b) off the telephone poll so that § 87(2)(b) fell on the ground, positioned on his left side. PO Rollins was on top of § 87(2)(b) holding § 87(2)(b)'s left wrist. § 87(2)(b) held his right arm to his stomach and prevented the officers from bringing it behind his back to be cuffed. PO Harris was trying to gain control of § 87(2)(b)'s other arm. PO Rollins gained control of § 87(2)(b)'s other arm and cuffed § 87(2)(b) before backup arrived. PO Rollins did not use his legs to control § 87(2)(b). PO Rollins could not recall which officers arrived as backup nor could he say how many officers arrived. Upon further questioning, he estimated over five additional officers arrived, some in uniform and others in plainclothes. PO Rollins, PO Harris and another officer picked up § 87(2)(b) and put him into an RMP.

Neither he nor PO Harris ever punched or kicked § 87(2)(b). He did not observe any other officers punch or kick § 87(2)(b) and did not recall if any other officers did so.

Officer Statement: PO Jack Kwok

PO Kwok provided the following statement at the CCRB on January 20, 2009 (Encl. 14A-B). He is a § 87(2)(b) old Asian male 5'7", 150lbs with black hair and brown eyes.

On September 20, 2008 PO Kwok worked from 3:00pm to 11:35pm. He was assigned to patrol sectors D, E, and G. He was working with PO Webb, in uniform. He was assigned to a marked RMP, number 1970. He read the following memo book entry into the record, "20:37 – 85, 81 Crime at Madison and Reade. 20:43 – Transporting 1 male to stationhouse for 81 crime. 21:11 – 90 Yellow on Quincey" (Encl. 13A-E).

PO Kwok received a call over the radio for 10-85, request for additional units. When he arrived to the scene, he saw two officers he did not know and saw § 87(2)(b) in handcuffs. He did not personally assist in cuffing the subject nor did he observe any other officers cuff him. He did not see any officers punch, kick or use any physical force on § 87(2)(b). The male did not appear injured and was standing at the time. The subject did not appear to be resisting at this time, but PO Kwok did not recall the man's demeanor.

Officer Statement: PO Jermaine Webb

PO Webb provided the following statement at the CCRB on January 20, 2009 (Encl. 12A-B). He is a § 87(2)(b) old black male 6'0", 230lbs with no hair and brown eyes.

On September 20, 2008 PO Webb worked from 3:00pm to 11:35pm. He was assigned to patrol with PO Kwok. They were working in uniform, working in RMP number 1970. He read the following memo book entries into the record, "20:37 – 85 81 Crime at Madison and Reade Avenue. 20:43 – 1 Male perp. Into RMP. Back to Stationhouse. 21:11 – Finalize Job on Quincy Street" (Encl. 12A-B).

PO Webb's statement was consistent with PO Kwok's statement.

Officer Statement: PO Walter Feit

PO Feit provided the following statement at the CCRB on February 18, 2009 (Encl. 18A-B). He is a § 87(2)(b) old white male, 6'1", 280lbs with blond hair and blue eyes.

On September 20, 2008, PO Feit worked from 3:00pm to 11:35pm. He was assigned to patrol with PO Liss in uniform. They were assigned to marked RMP number 2124. PO Feit was the operator. The Roll Call for the 81st Command for September 20, 2008 tour 3 shows that he was assigned to RMP 4558. PO Feit was not sure at the time of his interview at the CCRB to which RMP he was assigned. PO Feit read the following memo book entries into the record, "21:15 85 foot post at Stuy and Monroe" (Encl. 17A-C)

At approximately 9:00pm, he and his partner, PO Liss, responded to a call for assistance over the radio at Stuyvesant Street and Monroe Avenue in Brooklyn. At the scene, a large crowd which contained approximately 15-20 people had gathered around an arrest, so he and PO Liss performed crowd control. PO Feit did not know what actions any officers were taking with respect to the arrest. He did not know if anyone was on the ground being arrested or if any officers punched or kicked § 87(2)(b).

PO Feit did not know which officers were performing the arrest or at the scene. He observed between 6-12 officers at the scene, none of whom he recalled by name. PO Feit did not recall if there were any officers in uniform higher than the rank of sergeant at the scene. He did not recall seeing any plainclothes officers. There were several RMP's at the scene, but he could not recall their numbers. PO Feit said that this incident happened a long time ago and 10-85 calls for assistance occur frequently, especially over the summer.

Officer Statement: PO Jeffrey Liss

PO Liss provided the following statement at the CCRB on February 18, 2009 (Encl. 16A-B). He is a § 87(2)(b) old Hispanic male 5'10", 190lbs with brown hair and brown eyes.

On September 20, 2008, PO Liss worked from 3:00pm to 11:35pm. He was assigned to patrol in uniform with PO Feit. He was assigned to marked RMP number 2124. He was the recorder. He read the following memo book entries into the record, "21:15 85 foot post at Stuy and Monroe crowd control" (Encl. 15A-C).

PO Liss's statement was consistent with that of PO Feit.

Officer Statement: PO Andrew Sriken

PO Sriken provided the following statement at the CCRB on March 4, 2009 (Encl. 20A-B). He is a § 87(2)(b) old asian male 5'8", 175lbs with brown hair and brown eyes.

On September 20, 2008, PO Sriken was assigned to a marked RMP number 2549, as the operator. He was working with PO Lewis on patrol in uniform. He had no memo book entries regarding this incident (Encl. 19A-C).

PO Sriken responded to a commercial burglary at 7:10pm at § 87(2)(b) in Brooklyn. At 9:30pm, he took meal at the stationhouse. He did not recall what was happening between those two jobs. Stuyvesant Avenue and Monroe Street is not between those two locations. It is not in his patrol area. He did not recall receiving any calls to assist other officers. He did not recall any arrests that were being made between 7:10pm and 9:30pm. He did not recognize § 87(2)(b) in his arrest photograph. He did not recall being involved with a number of other officers in an arrest of a resistant individual on the date and time specified. He denied using physical force against § 87(2)(b).

Officer Statement: PO Shartisia Lewis

PO Lewis provided the following statement on March 5, 2009 (Encl. 21A-B). She is a § 87(2)(b) old black female, 5'6" 180lbs with brown hair and brown eyes.

On September 20, 2008, PO Lewis worked from 3:00pm to 11:35pm. She did not recall her assignment, but the Roll Call for September 20, 2008 tour 3 confirmed that she was on patrol with PO Sriken. She did not have her memo book at the time of this interview. She works in uniform and was assigned to a marked RMP according to the 81st Precinct Roll Call for the date and time of the incident.

PO Lewis did not recall this incident and denied discussing this complaint with PO Sriken, PO Webb, PO Kwok PO Feit, PO Liss or PO Harris. She said that the tour is usually busy.

Medical Records

§ 87(2)(b) did not receive any medical treatment in regards to injuries he received as a result of this incident.

Police Documents

The Sprint Print Out, job number S14236, for this incident shows that on September 20, 2008 at Monroe Street and Stuyvesant Avenue in Brooklyn an officer assigned to sector A called a 10-85, for additional units to respond. Sectors A, F, I and D responded to the scene. No officers were injured and one person was arrested (Encl. 22A-C).

The 81st Precinct Roll Call for September 20, 2008 tour 3 shows that PO's Harris and Rollins were assigned to sector F. PO's Liss and Feit were assigned to sector A. PO's Kwok and Webb were assigned to sector D. PO Lewis and PO Sriken were assigned to sectors I (Encl. 24A-O). The 81st Precinct Command Log shows that PO Rollins escorted § 87(2)(b) into the precinct following § 87(2)(b)'s arrest. His apparent physical and mental condition were marked "Good/Good" (Encl. 23A).

The UF61, complaint number § 87(2)(b), shows that § 87(2)(b) was arrested by PO Rollins for § 87(2)(b) on the south west corner of Monroe Street and Stuyvesant Avenue in Brooklyn at 9:10pm on September 20, 2008 (Encl. 25A-B).

A subsequent review of the BADS showed that there were no other arrest reports for individuals arrested within the vicinity in which § 87(2)(b) was arrested (Encl. 27A).

Criminal Conviction History

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

§ 87(2)(b) has filed two other complaints with the CCRB. § 87(2)(b)

Subject Officer CCRB History

PO Rollins has worked for the NYPD for three years and no CCRB allegations have been substantiated against him. PO Harris has worked for the NYPD for two years and has not had any CCRB allegations substantiated against her (Encl. 2A-B).

Notice of Claim

Following a diligent search conducted by the Comptroller's Bureau of Law and Adjustment, it was determined that § 87(2)(b) did not file a Notice of Claim against the City of New York regarding this incident as of May 28, 2009 (Encl. 30A-J).

Conclusions and Recommendations

Officer Identification

The investigation determined the identities of the first two officers who encountered § 87(2)(b) by their physical descriptions and the documents related to § 87(2)(b)'s arrest. It was determined that PO Harris allegedly searched § 87(2)(b) because she was the one female officer on the scene at the time.

PO Harris' and PO Rollins' testimonies show PO Harris pointed pepper spray at § 87(2)(b). § 87(2)(b)'s testimony is also clear that PO Harris aimed pepper spray at him. § 87(2)(g) did not appear to view photo arrays to identify the final subject officers who were also allegedly involved in using physical force against him. § 87(2)(g)

Undisputed Facts

Officers used physical force against § 87(2)(b) and arrested him. It is also undisputed that PO Harris pointed pepper spray at § 87(2)(b)

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(g)

§ 87(2)(b) said that she was nearby when PO Harris approached § 87(2)(b) and asked him for identification. § 87(2)(b) denied that PO Harris frisked or searched § 87(2)(b) which the officers corroborate. § 87(2)(b) also said that § 87(2)(b) said to the officers he was only speaking and then talked about freedom of speech. This corroborates the narrative in § 87(2)(b)'s arrest report, which shows he cursed at the officers and corroborates PO Rollins' statement about how the incident began. § 87(2)(g)

§ 87(2)(b) alleges that he was punched approximately twenty times by five to six officers and was kicked three times in the head. § 87(2)(g)

§ 87(2)(b) has no apparently injuries to his face in his arrest photograph aside from two dark marks on the left side of his head, § 87(2)(g)

§ 87(2)(b) He did not request any medical treatment and his physical and mental condition was listed as "Good/Good" in the Command Log. No medical treatment was provided for him by the NYPD and he did not seek any medical treatment after the incident. He denied sustaining any major injuries. § 87(2)(g)

Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(b) vehicle was double parked while she engaged in conversation with § 87(2)(b) § 87(2)(g)

Allegation A) PO Emily Harris searched § 87(2)(b)

§ 87(2)(g)

Allegation B) PO Emily Harris threatened § 87(2)(b) with force.

PO Harris pointed OC spray at § 87(2)(b) following an attempt to arrest § 87(2)(b) in which § 87(2)(b) verbally and then physically resisted. Furthermore, PO Harris and PO Rollins testified that PO Harris pointed OC spray at § 87(2)(b) after he was actively physically resistant. The NYPD Patrol guide section 212.95 states that necessary force may be used to control a subject and that OC spray may be employed when an officer “reasonably believes it is necessary to affect an arrest of a resisting suspect, for self-defense or defense of another from unlawful force” (Encl. 1A-D). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C) Officers used physical force against § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: